

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

REBECCA BURTON, *et al.*,

Plaintiff,

v.

LEGACY HEALTH,

Defendant.

Case No. 3:23-cv-1528-JR

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Jolie A. Russo issued Findings and Recommendation in this case on February 28, 2024. Judge Russo recommended that this Court deny in part and grant in part Defendant’s Motion to Dismiss. Specifically, Judge Russo recommended that the Court grant the motion with respect to the claims of Plaintiffs Rebecca Burton, Jina Lehman, Galina Lopuga, and Lori Sahlin, but allow those plaintiffs leave to file a motion to amend. No party has filed objections.

Under the Federal Magistrates Act (Act), the court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). If a party objects to a magistrate judge’s findings and recommendations, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge’s findings and recommendations if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Rule 72(b) of the Federal Rules of Civil Procedure recommend that “[w]hen no timely objection is filed,” the court review the magistrate judge’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Judge Russo’s Findings and Recommendation for clear error on the face of the record. No such error is apparent. Accordingly, the Court ADOPTS Judge Russo’s Findings and Recommendation, ECF 15. The Court GRANTS IN PART and DENIES IN PART Defendant’s Motion to Dismiss, ECF 4. The Court dismisses the claims of Plaintiffs Burton, Lehman, Lopuga, and Sahlin, without prejudice. Plaintiffs have leave to file a motion to file a First Amended Complaint within 30 days of this Order.

IT IS SO ORDERED.

DATED this 22nd day of March, 2024.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge